

3.8 Cultural Resources

The information in this section is based on the *Historic Property Survey Report and Attachments* (HPSR) (June 2012), the *Findings of Effect* (FOE) (November 2012), and the *Memorandum of Agreement* (MOA) (October 2014).

3.8.1 Regulatory Setting

The term “cultural resources” as used in this document refers to all “built environment” resources (structures, bridges, railroads, water conveyance systems, etc.), culturally important resources, and archaeological resources (both prehistoric and historic), regardless of significance. Laws and regulations dealing with cultural resources include:

The National Historic Preservation Act of 1966 (NHPA), as amended, sets forth national policy and procedures regarding historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to allow the Advisory Council on Historic Preservation the opportunity to comment on those undertakings, following regulations issued by the Advisory Council on Historic Preservation (36 Code of Federal Regulations [CFR] 800). On January 1, 2004, a Section 106 Programmatic Agreement (PA) between the Advisory Council, Federal Highway Administration (FHWA), State Historic Preservation Officer (SHPO), and Caltrans went into effect for Caltrans projects, both state and local, with FHWA involvement. The PA implements the Advisory Council’s regulations, 36 CFR 800, streamlining the Section 106 process and delegating certain responsibilities to Caltrans.

On January 1, 2014, the First Amended Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California (2014 PA) became effective and replaced the 2004 PA.

Historic properties may also be covered under Section 4(f) of the U.S. Department of Transportation Act, which regulates the “use” of land from historic properties. See Appendix B for specific information about Section 4(f).

Historical resources are considered under the California Environmental Quality Act (CEQA), as well as CA Public Resources Code (PRC) Section 5024.1, which established the California Register of Historical Resources. PRC Section 5024 requires state agencies to identify and protect state-owned resources that meet National Register of Historic Places listing criteria. It further specifically requires Caltrans to inventory state-owned structures in its rights of way. Sections 5024(f) and 5024.5 require state agencies to provide notice to and consult with the State Historic Preservation Officer SHPO before altering, transferring, relocating, or demolishing state-owned historical resources that are listed on or are eligible for inclusion in the National Register or are registered or eligible for registration as California Historical Landmarks.

3.8.2 Affected Environment

Information from this section is derived from the HPSR and Attachments that was completed in 2012 for the MCP project. Methodology in support of these documents included a records search, a pedestrian survey, test excavations, consultation with historic groups, and Native American consultation to identify prehistoric and historical cultural resources that may be eligible for listing in the National Register of Historic Places (National Register) and the California Register of Historical Resources (California Register). All studies were completed in accordance with CEQA and Section 106 of the NHPA.

3.8.2.1 Area of Potential Effects

The MCP Area of Potential Effects (APE) contains a total of approximately 3,218 acres (ac). The area of direct impacts is the horizontal and vertical area proposed for potential ground-disturbing activities and totals approximately 1,977 ac within the area of the existing and proposed right of way. The area within the APE that will not be directly impacted by construction is referred to as the area of indirect impacts and totals 1,241 ac.

Delineation of an APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects. For the MCP project, the area of direct impacts was used for archaeological studies.

3.8.2.2 Records Search

A cultural resources records search was conducted at the Eastern Information Center of the California Historical Resources Information System. It included review of historical maps and aerials, and review of published and unpublished information

concerning archaeological, ethnographic, and historical development in the project vicinity of the MCP APE. Copies of site record forms for prehistoric, historical, and prehistoric/historical sites, as well as a bibliographic reference list of all previously conducted cultural resource work within the APE and for the surrounding records search area were obtained as part of the records search. All mapping within the California Historical Resources Information System is provided on 7.5-minute United States Geological Survey (USGS) topographic maps.

The California Historical Resources Information System records searches also included a review of listings in the National Register (updated July 29, 2005), the California Register (from lists updated in March and July 2005), the California Inventory of Historic Resources (1976, updated March 7, 2005), the California Historical Landmarks (1996, updated July 13, 2004), the California Points of Historic Interest (May 1992, updated April 10, 2003), the Historic Property Data File (Office of Historic Preservation current computer list, updated March 7, 2005), and the Caltrans State and Local Bridge Survey (January 2011). In addition, a review of historic 15-minute and 30-minute USGS topographic maps, General Land Office plat maps, and Sanborn Fire Insurance Maps was conducted.

3.8.2.3 Survey Methods

A reconnaissance-level pedestrian field survey of the archaeological survey area was conducted in May 2004, between April and July 2005, between August 2005 and March 2006, and in March 2011 following project modifications that added previously unsurveyed areas to the APE. The entire MCP archaeological survey area (approximately 1,977 ac) has been adequately surveyed.

3.8.2.4 Native American Consultation

Consultation with Native American tribes/groups and representatives has been ongoing for both the original 32 mi and the modified 16 mi MCP project, as required by Section 106 of the NHPA. Interested Native American parties participated in and/or commented on the Phase I Identification Survey (Phase I), the Extended Phase I Testing (XPI), the Phase II Evaluation efforts (Phase II), and the draft HPSR and FOE, as well as the *Preliminary Recommendations of Eligibility and Level of Effects*, a document that was prepared for use in the 2008 Draft EIR/EIS for the MCP project, but is no longer under consideration because the Final HPSR and FOE are now complete.

Consultation was initiated as part of the Phase I survey for the MCP project in February 2005 when 43 tribes/individuals, as recommended by the NAHC, were contacted by letter and telephone. Consultation was conducted again in anticipation of the XPI survey in May and November of 2006. The XPI consultation in November 2006 included eight parties identified during the previous consultation processes as having a continued interest in the project. These parties included a Cahuilla Tribal Elder, the Cahuilla Band of Indians, the Pala Band of Mission Indians, the Gabrieleno/Tongva San Gabriel Band of Mission Indians, the Morongo Band of Mission Indians, the Pechanga Band of Luiseño Indians, the Ramona Band of Cahuilla Indians, and the Soboba Band of Luiseño Indians. As the Phase I survey effort neared completion and the XPI survey approached, all of these parties were contacted by telephone between the dates of November 27, 2006, and December 13, 2006. The phone calls were to inform the parties of the status of the project and determine what level of involvement they would prefer as the project progressed. Of the eight groups contacted, two declined further involvement for various reasons: Pala Band of Mission Indians and a Cahuilla Tribal Elder.

The six remaining Native American tribes and groups (the Cahuilla Band of Indians, the Gabrieleno/Tongva-San Gabriel Band of Mission Indians, the Morongo Band of Mission Indians, the Pechanga Band of Luiseño Indians, the Ramona Band of Cahuilla Indians, and Soboba Band of Luiseño Indians) continue to participate in consultation for the MCP project. On November 21, 2007, a representative from the Gabrielino Tongva Nation, which was included in the initial 2005 consultation for the MCP project but originally declined further consultation, requested involvement. The Gabrielino Tongva Nation became formally involved on November 21, 2007. These seven tribes and groups were involved in and commented on Phase II and the *Preliminary Recommendations of Eligibility and Level of Effects*.

Through continuing Native American consultation, the FHWA has received comments from several of the consulting Native American tribes regarding Site 33-16598 that aided in the identification of this site as eligible for the National Register (see discussion of this site below under Section 3.8.2.6, results):

- The Gabrieleno/Tongva San Gabriel Band of Mission Indians recommend that this site be re-evaluated as a sacred ceremonial property eligible for the National Register and the California Register. The Tribe suggests that the site may produce substantial data on human history and ceremonial practices, and might produce data indicating common ceremonial practices in other regions.

- The Gabrielino Tongva Nation state that the Gabrielino Tongva Nation concurs with the recommendations made for the site.
- The Pechanga Band of Luiseño Indians agrees that the site is National Register eligible and that it holds a tribal cultural significance. The entire village area is known as *Páavi* by the Pechanga people. As this is a significant site with important cultural value, the Tribe has consistently taken the position that the entire site be avoided and preserved in place with no development activity to directly or indirectly affect this significant sacred area. The Tribe suggests that the three unique artifacts that were found on the surface of the site are consistent with the high significance of the site and are representative of the types of items likely to be uncovered if this area is ever subject to development. The Tribe asserts that this entire site, including the area of the site that is within the MCP right of way, is eligible under the National Register criteria. The Tribe believes that all portions are contributing components to the overall integrity of the site as demonstrated by the presence of ceremonial items and the drawing of the site boundary to include this area, and the destruction of any portion of the site is a destruction of the totality of the site.
- The Ramona Band of Cahuilla Indians believes that Site 33-16598 is a truly unique and sacred area and that any impacts, including redefining the sites boundaries so as to “clear” portions of the site for inclusion in the proposed MCP project right of way, would forever negatively impact the integrity of the site. The Ramona Band of Cahuilla Indians strongly recommends avoidance of Site 33-16598 in its entirety.
- The Soboba Band of Luiseño Indians is concerned about the site, and wants it preserved.

The following concerns were expressed regarding the *Preliminary Recommendations of Eligibility and Level of Effects*:

- That the federal criteria being applied for determining whether a site is eligible for listing in the National Register did not fully reflect the Native American’s cultural values;
- That cultural resources be considered as significant not just on an individual basis, but also on a regional level; and
- That it be assured that the tribal comments would be acknowledged by the agencies.

Written comments on the *Preliminary Recommendations of Eligibility and Level of Effects* were received from the Gabrieleno/Tongva San Gabriel Band of Mission Indians, the Gabrielino Tongva Nation, the Pechanga Band of Luiseño Indians, the Ramona Band of Cahuilla Indians, and the Soboba Band of Luiseño Indians by regular and/or electronic mail. Concerns regarding the preliminary evaluations of sites, the preservation versus the destruction of sites, and the general cultural significance of the overall project area were expressed by all of the commenting tribes/groups with the exception of the Gabrielino Tongva Nation, which agreed with the approach and results of the testing program.

On February 4, 2011, a letter discussing the refinements to the MCP project limits was sent from RCTC to 11 individuals representing the six tribes and groups that continue to be in consultation for the project: the Gabrieleno/Tongva San Gabriel Band of Mission Indians, the Cahuilla Band of Indians, the Pechanga Band of Lucieño Indians, the Ramona Band of Cahuilla Indians, the Morongo Band of Mission Indians, and the Soboba Band of Lucieño Indians. The letter also discussed the need for a small amount of additional survey and invited Native American participation.

Three of the tribes and groups contacted declined to participate in the survey, but were glad that other Native Americans would be present: the Gabrieleno/Tongva-San Gabriel Band of Mission Indians, the Cahuilla Band of Indians, and the Soboba Band of Luiseño Indians. The Pechanga Band of Luiseño Indians, the Ramona Band of Cahuilla Indians, and the Soboba Band of Lucieño Indians all expressed interest in being present and were kept in communication regarding the survey schedule. Tribal representatives from the Pechanga Band of Lucieño Indians and the Soboba Band of Lucieño Indians accompanied the archaeologist on the survey, which took place on March 30, 2011.

The Gabrielino Tongva Nation, was not included in the original notification sent on February 4, 2011, to the six tribes and groups as described above. However, they were contacted by telephone on April 12, 2011. The content of the letter was explained and the negative results of the survey were reported. They requested that a copy of the letter be sent to the Tribe by email. They also stated that the Tribe would like to continue to be consulted for the remainder of the MCP project.

Two informational meetings were held on September 21 and 28, 2011, to provide the tribal representatives a clear understanding on how the project had changed from its

original alignment between Interstate 15 (I-15) in the west and State Route 79 (SR-79) in the east to the modified project limits between Interstate 215 (I-215) in the west and SR-79 in the east, as well as to outline the next steps, including major milestones and review of the schedule for completing the cultural documents. State Historic Preservation Officer representatives were present via conference call at the September 21, 2011, meeting. All consulting Native Americans, including those who were unable to attend the meetings, were sent meeting summaries. In November 2011, the HPSR for the Modified MCP project was sent for review to the seven tribes/groups that are currently in consultation.

Two responses were received with regard to the Draft HPSR. The Soboba Band of Lucieño Indians responded in a letter dated December 5, 2011. The letter requested government-to-government consultation per Section 106, and that it continue to be a lead consulting entity for the project. The letter also requested that a Native American monitor from the Tribe be present during any ground-disturbing proceedings for the project, that proper procedures be taken, and that the requests of the Tribe be honored.

The Pechanga Band of Lucieño Indians requested a meeting to discuss the Draft HPSR. This meeting was held on February 7, 2012. Besides the Pechanga Band of Lucieño Indians representatives, those present included representatives from FHWA, RCTC, Caltrans District 8, and the MCP project consultants. Pechanga gave a detailed presentation regarding the project area as part of its ethnographic and ancestral territory and stated that it has multiple issues with the MCP project and its potential to impact cultural resources. The concerns include: direct and indirect effects to Site 33-16598; effects to sites immediately outside the APE; cumulative effects to cultural resources by future residential and commercial development precipitated by the presence of the MCP; and the lack of a “landscape” approach in the HPSR that would consider effects of the project on the larger vicinity as a traditional area that was used by the Luiseño people for hundreds of years. These concerns and others are detailed in a formal letter response from the Pechanga Band of Lucieño Indians dated February 22, 2012.

Follow-up phone calls to the five tribes and groups that did not comment on the draft HPSR were made on February 23, 2012. These were the Gabrieleno/Tongva–San Gabriel, the Cahuilla Band of Indians, the Ramona Band of Cahuilla, the Morongo Band of Mission Indians, and the Gabrielino Tongva Nation. The Cahuilla Band of

Indians responded that it is currently reviewing the Draft HPSR and may provide a response.

The draft FOE was submitted to the participating Native American tribes and groups for review on March 23, 2012. Follow-up phone calls to confirm that the FOE was received were made on March 30, 2012.

One response was received as a result of the FOE submittals. In a letter dated April 23, 2012, Pechanga Band of Lucieño Indians stated that they are not opposed to the project as a whole, but are opposed to any direct, indirect and cumulative impacts the MCP project may have on tribal cultural resources, including impacts proposed to Site 33-16598 and the additional five sites determined ineligible for the National Register. The Tribe does not agree that any part of the project should impact Site 33-16598. They would also like to see the remaining sites, which they do not agree are ineligible, evaluated as contributing elements of the larger cultural landscape in order to better understand their nature and properly assess their value. The Tribe requested continued involvement in the development of all cultural resources documents for the MCP project (for example, the Historic Properties Treatment Plan and Memorandum of Agreement), as well as participation in developing mitigation measures to assist with the avoidance, short-term mitigation, and long-term preservation of Site 33-16598. The letter from the Pechanga Band of Lucieño Indians also requested that their comments be incorporated into the record of approval for the MCP project. FHWA formally responded to the Pechanga's letter in a letter dated July 31, 2012.

The Soboba Band of Lucieño Indians requested a meeting to discuss the FOE in an email dated July 2, 2012. The meeting was held at RCTC offices on August 16, 2012. Of primary concern to the Tribe are impacts to 33-16598. The Tribe stated that this site is one of the only remaining sites of its kind that still retains integrity in the valley and that they, and other consulting tribes, are continually fighting to preserve it. The Tribe is currently working with other tribes on an agreement regarding the treatment of 33-16598 for another project that will impact it. They request that the draft Memorandum of Agreement for the MCP project and preliminary mitigation measures be sent at the same time so that the tribes have the necessary information to comment and participate in devising the mitigation measures that will be included in the Historic Property Treatment Plan.

The Pechanga Band of Lucieño Indians sent a letter dated July 26, 2012, to the State Historic Preservation Officer expressing concern about, and disagreement with, the Determinations of Eligibility (DOE) that the four Sites (33-19862, 33-19863, 33-19864, and 33-19866) are ineligible for the National Register. The Tribe stated that “the importance of these food processing sites lies not in their individual attributes and individual contribution to scientific research, but rather in, how they relate to one another, to the surrounding 40+ recorded sites within a one-mile radius and the scientific research contribution on a broader landscape level.” In response to Tribe’s letter and concerns expressed for Sites 33-19862, 33-19863, 33-19864, and 33-19866, in a letter dated September 18, 2012, the SHPO requested FHWA to revise the FOE to include these four sites. FHWA revised the FOE and resubmitted the report to the SHPO on December 4, 2012, for concurrence. Refer to Chapter 5 of this Final EIR/EIS for additional information on coordination with Native American Tribes and Tribal representatives.

3.8.2.5 Consultation with Historical Contacts

As part of the preparation of the *Historic Resource Evaluation Report* (attachment to the HPSR), consultation with other potentially interested parties was also conducted. The following were contacted via letter, electronic mail, or telephone call to identify known historic land uses and the locations of research materials pertinent to the project area:

- Norco Historical Society – letters sent June 14 and July 8, 2005, and May 25, 2006.
- Hemet-San Jacinto Genealogical Society – letters sent June 14 and July 8, 2005. August 30, 2006, Mary Allred requested additional information. Information sent October 24, 2006. Follow-up letter sent November 5, 2006.
- Perris Valley Historical Society – letters sent June 14 and July 8, 2005, and May 25, 2006. Additional information was requested in June 2006. Telephone message left with Society on October 24, 2006. Additional follow-up with Katie Keyes in December 2006.
- Pioneer Historical Society of Riverside – letters sent June 14 and July 8, 2005, and May 25, 2006. Erin Gettis requested additional information, which was emailed to her on June 28, 2005.
- Riverside Genealogical Society – letters sent June 14 and July 8, 2005, and May 25, 2006.
- Winchester Historical Society of Pleasant Valley – letters sent June 14 and July 8, 2005, and May 25, 2006.

- Corona Historic Preservation Society – telephone message left January 17, 2007; letter sent January 18, 2007.
- Joe Toth (possible relative of current owner) – letter sent December 28, 2006.

Interviews were conducted with the following persons:

- Katie Keyes, Perris Valley Historical and Museum Association, email communications, December 11, 21, and 26, 2006.
- John Vrsalovich, Metropolitan Water District of Southern California (Metropolitan), telephone communication, November 7, 2006.
- Tim Skrove, Western Municipal Water District representative for the Lake Mathews region, email and telephone conversations, November 6, 2006.
- Steve Lech, local historian and Riverside County Park Planner, email and telephone communications, December 11, 2006, and February 2007.
- Kim Johnson, local historian and former Riverside County Department of Parks and Recreation employee, telephone communication, December 2006.
- Lori Norris, Riverside County Historical Commission, email communication, October 24, 2006.
- Mary Allred, Hemet-San Jacinto Genealogical Society, email communication, October 24, 2006.
- Kevin Hallaran, Riverside Municipal Museum, email communication, December 5 through 7, 2006.
- Bill Bell, Banning Public Library, email communication, December 5 and 6, 2006.
- Dave Reynolds, Mead Valley Community Center, personal communication, October 24, 2006.

Local Cultural Resources Management Firm Contacts

In addition to the above contacts, two cultural resources firms were also contacted concerning reports for projects in the MCP project area. In April 2005, Mr. Michael Lerch of Statistical Research, Inc., was contacted to obtain copies of a report that was being completed by Statistical Research, Inc. A copy of that report, *The Villages of Lakeview Specific Plan*, which contains the archaeological study of Site 33-16598, was obtained. Applied Earthworks was contacted to coordinate evaluation of the CBJ Dairy (Site 33-15752) that is also located in the APE of the SR-79 Realignment Project. Applied Earthworks also provided a copy of the State Historic Preservation Officer concurrence letter regarding the eligibility determination for the CBJ Dairy and assisted with the field survey for the MCP project.

3.8.2.6 Results

The information in this section is based on the HPSR and the FOE. As stated above, identification efforts for cultural resources included research, field survey, and consultation with Native American tribes, historical societies, and individuals with knowledge of the area.

National Register/California Register Eligible Resources within the MCP APE

Site 33-16598 (CA-RIV-8712)

This is a large and deeply buried multi-use prehistoric site that measures approximately 78 ac. The entire site is included within the APE due to the potential for direct and indirect effects to the site as a whole, but only a 2.6 acre part of the northern edge of the site is within the proposed right of way (area of direct impacts). The site is situated on a land formation that has been deep-ripped and plowed for agriculture for many years. Many surface artifacts, especially in the central and northern portions of the site, may have been displaced from their original provenience by repeated agricultural plowing activities across the site in combination with extensive trenching activities that displaced soil and artifacts during work for the Inland Feeder Project (Susan Goldberg, personal communication, 2007). Construction of the Colorado River Aqueduct in the 1930s and the Inland Feeder Project destroyed approximately 12.5 ac (16 percent) of the Multi-Use Prehistoric Site. The site appears to be relatively intact below the plow zone. Trenching and excavation at the site has uncovered what appears to be several levels of occupation, with radiocarbon dates associated with intact features as deep as 13 ft containing ceramics that date to approximately 8,000 years before present. Trench excavations on the site revealed that a more dense deposit of artifacts is present on the southern and central portions of the site; trench excavations in the northern portion of the site within and near the MCP area of direct impacts, indicate a drastic drop-off in site density.

Rock art in the form of pictographs and cupules are present at the southern portion of the site, Locus A (RIV-393); the style of the pictographs suggests that they are of the San Luis Rey style (Rockman and Lerch 2005:5.12), which is associated with the San Luis Rey II Period, dating from AD 1750 to 1850. Mid-19th century ethnographic accounts by early settlers in the Lakeview area confirm the presence of Native Americans living in the region (Rockman and Lerch 2005).

The site has been previously recommended as eligible for the National Register (Rockman and Lerch 2005).

Based on this prior work, as well as the survey work for the MCP project, this site as a whole was determined to be National Register eligible under Criteria A, C, and D, and also eligible for listing in the California Register under Criteria 1, 3, and 4. The State Historic Preservation Officer concurred that Site 33-16598 does meet National Register criteria in a letter dated September 18, 2012.

Resources in the MCP APE Being Treated as Eligible for the National Register/California Register for the Purposes of this Undertaking

Site 33-3653

This site is a milling station site with associated surface artifacts. It measures 82 ft x 20 ft and consists of three well-worn milling slicks on two granitic boulder outcrops. This site is within the APE, but adjacent to the right of way (area of direct impacts) and can, therefore, be protected by designation as an Environmentally Sensitive Area with it being treated as eligible for the National Register for the purposes of this undertaking. In the letter dated September 18, 2012, the State Historic Preservation Officer stated that there were no objections to these findings.

Sites 33-19862, 33-19863, 33-19864, and 33-19866

Sites 33-19862, 33-19863, 33-19864, and 33-19866 were initially determined not eligible for the National Register. In the September 18, 2012, letter, the State Historic Preservation Officer agreed that these cultural resources have limited data potential and archaeological values beyond the data already recorded, but noted that based on comments from the Tribes, these resources individually may not be eligible but may contribute to an as yet to be defined historic district located within the cultural landscape identified by the Tribes. In the letter dated September 18, 2012, the State Historic Preservation Officer requested that existing data and information provided by the Tribes be analyzed to determine if a National Register eligible District may exist and if the four sites contribute to the District's significance. As an option, the State Historic Preservation Officer suggested that these four sites be assumed eligible for the undertaking and to explore means for taking the effects of the undertaking into account. For the MCP project, these four sites are being treated as eligible for the purposes of this undertaking. A description of each resource follows.

Site 33-19862

This site is a milling station site that measures 240 ft x 246 ft and has two loci with no associated surface artifacts. Locus A measures 32 ft x 272 ft and contains nine well-worn milling slicks on five granitic boulder outcrops. Locus B measures 23 ft x 20 ft and contains one lightly worn milling slick on a single granitic boulder outcrop.

Site 33-19863

This 23 ft x 20 ft site is a small milling station with no associated surface artifacts that contains one moderately worn milling slick on a single granitic boulder.

Site 33-19864

This 26 ft x 52 ft site is a small milling station with no associated surface artifacts that contains five well-worn milling slicks on a single granitic bedrock outcrop.

Site 33-19866

This 23 ft x 49 ft site is a milling station with no associated surface artifacts. It consists of three well-worn milling slicks on two granitic boulder outcrops.

Resources in the MCP APE Determined Not Eligible for the National Register

Site 33-15752 (CBJ Dairy)

This 1959 California ranch-style dairy is situated on 170 ac (distributed over three parcels) and is a representative but undistinguished example of a post-World War II scientific dairy type. The property lacks sufficient significance and integrity to be considered eligible for the National Register. While the property was influential to the growth and expansion of the local dairy industry in the San Jacinto Valley, its marginal significance is not sufficient to outweigh the property's lack of integrity. This site was previously recommended as not eligible for the National Register as documented in State Historic Preservation Officer concurrence obtained as part of the SR-79 Realignment Project in a letter dated August 2, 2010. The August 2010 State Historic Preservation Officer concurrence letter is attached to the Historical Resources Evaluation Report (August 2011) prepared for the MCP project.¹ In the letter dated September 18, 2012, the State Historic Preservation Officer stated that this determination remains unchanged.

Site 33-19865

This 203 ft x 282 ft site includes the remnants of a historic homestead and well. Although this site includes the remains of a historic-period residence, it is considered a marginal cultural resource due to its minimal archaeological data and because this site does not appear to have the potential to answer more than the simple questions of who lived on the property and the dates they occupied the property. Additionally, no

¹ The Historical Resources Evaluation Report (August 2011) is included as Attachment G to the HPSR prepared for the MCP project (June 2012).

historic artifacts were located on the surface of the site, and no indication of any subsurface archaeological deposits was visible. Based on archaeological and historical evaluations, this site does not appear to meet any of the criteria for listing in the National Register or the California Register. It does not appear to have significant associations with events or persons important in history (Criteria A/1 and B/2) nor does it represent an important property type (Criterion C/3). Due to the lack of potential for additional significant archaeological information, the site does not appear to be able to answer any important research questions (Criterion D/4). Therefore, it has been determined and the State Historic Preservation Officer has concurred in a letter dated September 18, 2012, that Site 33-19865 does not meet the criteria to be eligible for listing in the National Register.

3.8.2.7 Discovery of Cultural Materials or Human Remains

If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find.

If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the County of Riverside (County) Coroner contacted. Pursuant to PRC Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) who will then notify the Most Likely Descendant (MLD). At this time, the person who discovered the remains will contact the District Environmental Branch Chief or the District Native American Coordinator so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.

Refer to Section 3.8.5 for modifications made to these requirements for inclusion in Measures CUL-1 and CUL-2, as part of the MOA.

3.8.3 Environmental Consequences

3.8.3.1 Permanent Impacts

National Register Eligible Resources

Site 33-16598

Site 33-16598 is within the MCP APE, and all MCP Build Alternatives will result in the physical destruction of the northeastern 2.6 ac (3.3 percent) of Site 33-16598 that are in the MCP right of way (area of direct impacts). This destruction will occur due

to the placement of fill material in the construction of the MCP freeway. Construction will involve overexcavation to a depth of approximately 2 ft below current grade. Overexcavation is necessary to stabilize the fill material that is placed on top of the existing soils. This depth of impact is roughly equal to the depth of the current agricultural plow zone (the top approximately 2 ft of soil).

In the area of Site 33-16598, the MCP freeway will be elevated approximately 10–15 ft above current grade. At the eastern boundary of the site, the proposed elevation of the MCP facility will be nearly 15 ft above current grade. At the western boundary of the site, the MCP facility will be approximately 10 ft above current grade.

The area of Site 33-16598 that will be affected is highly disturbed, and trench excavations there revealed a drastic drop-off in site artifact density in that area; the portion of the site within the MCP area of direct impacts does not appear to contribute to overall site eligibility for the National Register under Criterion D. However, based on tribal comments, there will be an adverse effect to the site for the National Register under Criterion A. Criterion A is associated with events that have made a significant contribution to the broad patterns of local or regional history. Therefore, consistent with 36 CFR 800.5(a)(2)i), the physical destruction of the northeastern 2.6 percent of Site 33-16598 will be an adverse effect to the historic property. The State Historic Preservation Officer concurred with this determination on January 8, 2013.

The first option considered for this type of effect is preservation in place of the archaeological site. However, this option is not feasible for the MCP Build Alternatives because the existing soil in that area is not suitable for use as base material for the MCP freeway facility and requires removal and compaction in order to provide an appropriate base for the road. A Memorandum of Agreement and a Discovery and Monitoring Plan have been prepared to mitigate effects of the MCP project to Site 33-16598 and as described later in Section 3.8.4.

It should be noted that native soils below the depth of the excavation for the project which may contain archaeological resources would not be disturbed by the project construction. The placement of the compacted soil and the road surface over the native soil at and below approximately 2 ft below grade would preserve the resources below that level in place.

Realignment of the MCP project was also considered in order to fully avoid Site 33-16598. These avoidance options are described in detail in Appendix B, Section 4(f) Evaluation. In summary, no prudent avoidance options were identified.

Site 33-3653

This site is within the MCP APE, but adjacent to the MCP right of way (area of direct impacts). As such, it will be designated for protection as an Environmentally Sensitive Area and will be fenced off and monitored during construction. The site will not be directly impacted; therefore, the Determination of Effect for Site 33-3653 is No Adverse Effect with Standard Conditions (Environmentally Sensitive Area). The State Historic Preservation Officer concurred with this determination on January 8, 2013.

Sites 33-19862, 33-19863, 33-19864, and 33-19866

These four prehistoric milling station sites are within the MCP APE and right of way (area of direct impacts) and will be destroyed. Therefore, the Determination of Effect for Sites 33-19862, 33-19863, 33-19864, and 33-19866 is an Adverse Effect, and a Memorandum of Agreement has been prepared to mitigate effects of the MCP project. The State Historic Preservation Officer concurred with this determination on January 8, 2013.

Consultation

The FHWA is the lead federal agency under the NHPA and NEPA, with Caltrans assisting in the preparation of the NEPA environmental document. The RCTC is the Lead Agency under CEQA. Agency consultation and public participation for this project have been accomplished through a variety of formal and informal methods, including the MCP website (<http://www.midcountyparkway.org/>), public scoping meetings held in late 2004 and August 2005, continued coordination with MCP partner agencies, monthly project development team meetings, meetings with other agencies and interested parties, and ongoing consultation with Native American tribes. Historical contacts, as well as local cultural resource management firms, were also contacted in order to gather research materials important for the project area and vicinity. In October 2008, a Draft EIR/EIS for the MCP project (I-15 to SR-79) was circulated for a 90-day public review period. During this time, six public meetings/hearings were held, and RCTC accepted public comments for the record at all of these meetings, along with comments via mail, the MCP project website and email. In January 2013, a Recirculated Draft EIR/Supplemental Draft EIS for the MCP project (I-215 to SR-79) was circulated for a 75-day public review period, a public hearing was conducted on February 20, 2013, and RCTC accepted public comments for the record at the meeting along with comments via the MCP website, email, and mail.

The efforts of RCTC, FHWA, and Caltrans to involve the public in the Section 106 process, as well as to fully identify, address, and resolve project-related issues through early and continuing consultation, are presented in detail in the HPSR and the MOA.

The following discussions regarding federal and state contacts refer to the *Preliminary Recommendations of Eligibility and Level of Effects*. This document was prepared for use in the 2008 Draft EIR/EIS for the MCP project, but is no longer under consideration because the Final HPSR and FOE are now complete. The discussions are included here because of references to the treatment and eligibility of Site 33-16598.

Federal Contacts

Advisory Council on Historic Preservation

Based on the scale of the MCP undertaking and the fact that the project is listed on the national priority list for environmental stewardship and streamlining pursuant to Executive Order 13274, the FHWA consulted with the Advisory Council on Historic Preservation at an early stage in the Section 106 process. Carol Legard, a representative of the Advisory Council on Historic Preservation, attended several FHWA consultation meetings. Ms. Legard attended two FHWA meetings with interested Native American tribes (on October 11 and December 19, 2007) in order to have an understanding of the FHWA's implementation of Section 106 and to give the FHWA advice on the preliminary determinations of eligibility and the FOE presented for the MCP project. On March 19, 2008, Ms. Legard was also a participant in a teleconference call among the FHWA, the RCTC, Caltrans, the Office of Historic Preservation, and the project consultant team, to discuss revisions to the draft *Preliminary Recommendations of Eligibility and Level of Effects*.

During the meeting, Ms. Legard suggested that FHWA give further consideration to the possibility that Site 33-16598 is eligible for the National Register under Criterion A for its traditional religious and cultural value to the participating Native American Tribes. In a follow-up email dated April 1, 2008 (see HPSR, Volume 3, Attachment C, for a copy of the email), Ms. Legard stated that in light of the comments received from the California State Historic Preservation Officer (see HPSR, Volume 3, Attachment C, for a copy of these comments dating to March 20, 2008), she believed that the cultural values associated with the sites evaluated in the *Preliminary Recommendations of Eligibility and Level of Effects* had been considered. Ms. Legard stressed that if Native American tribes ascribed a traditional

value to historic properties (whether or not they are determined to be Traditional Cultural Properties), that the tribes be consulted in the resolution of effects to those properties. Also noted in the email dated April 1, 2008, the Advisory Council on Historic Preservation agreed with the recommendations of the State Historic Preservation Officer regarding Site 33-16598 (see HPSR, Volume 3, Attachment C, for comments from March 2, 2008) about recommendations made about the status of the site as a Traditional Cultural Property, but that the Advisory Council on Historic Preservation had no further comments regarding the preliminary findings.

On April 24, 2014 FHWA transmitted the FOE to the Advisory Council on Historic Preservation. On May 20, 2014, the Advisory Council on Historic Preservation requested that FHWA provide additional information to determine if their participation in the consultation to resolve adverse effects was warranted. Specifically, the Advisory Council on Historic Preservation requested information on steps FHWA has taken to consult with Indian tribes during development of the Memorandum of Agreement (MOA), the current views of these tribes, and how FHWA has addressed any concerns or objections raised. FHWA responded on May 29, 2014, providing information documenting the consultation activities on the MOA and steps FHWA was taking to address tribal concerns. After reviewing this information, the Advisory Council on Historic Preservation responded on July 18, 2014, stating that the criteria for involvement of the Advisory Council on Historic Preservation on individual Section 106 cases did not apply, and that they did not believe that their participation was needed to conclude the consultation process. Copies of the letters between FHWA and the Advisory Council on Historic Preservation are provided in Appendix J, Supplemental Chapter 5 Attachments.

State Contacts

California Office of Historic Preservation

Michael McGuirt, Susan Stratton, and Dwight Dutschke of the State Office of Historic Preservation attended several FHWA Native American consultation meetings. On October 11, 2007, Mr. McGuirt met with the project consultant team and representatives from the FHWA, the Advisory Council on Historic Preservation, Caltrans, consulting Native American tribes, and the RCTC. The meeting consisted of a field tour, the discussion of proposed Phase II field methods, and a subsequent discussion of artifact curation. Upon completion of the MCP Phase II fieldwork, Ms. Stratton and Mr. Dutschke met with representatives from the Advisory Council on Historic Preservation, FHWA, the RCTC, Caltrans, the project consultant team, and consulting Native American tribes on December 19, 2007. This meeting was to

discuss the *Preliminary Recommendations of Eligibility and Level of Effects* that summarized the results of the testing program and the preliminary findings of the fieldwork.

Ms. Stratton was also a participant in a teleconference call on March 19, 2008, with FHWA, the RCTC, Caltrans, the Advisory Council on Historic Preservation, and the project consultant team to discuss further revisions of the draft *Preliminary Recommendations of Eligibility and Level of Effects*. On March 20, 2008, verbal comments from Mr. Dutschke and Ms. Stratton were given in regard to the revised *Preliminary Recommendations of Eligibility and Level of Effects*.

Comments included the clarification on the difference between cultural significance and/or importance to tribes and the designation of a Traditional Cultural Property. According to Mr. Dutschke, a site can be culturally significant to a tribe (as is the stated case from many consulting tribes for the MCP); however, for a site that is culturally significant to be considered a Traditional Cultural Property, there needs to be continued and contemporary traditional cultural use or an explanation as to why such use could not occur. A Traditional Cultural Property would likely be eligible under Criterion A because it is associated with a traditionally important event or ceremony; however, stating that a site is culturally important to the tribe should not imply that the site is also eligible under Criterion A. Mr. Dutschke stated that while the Office of Historic Preservation agreed that Site 33-16598 is culturally significant based on the archaeological evidence and the comments from the tribe, due to the lack of ethnohistoric data on the rock art cultural use of the site and lack of data showing the connection of the contemporary use of the site with the prehistoric use of the site, the site does not appear to be a Traditional Cultural Property.

In a letter dated August 28, 2008, the Office of Historic Preservation gave preliminary concurrence with the Determinations of Eligibility and FOE presented in the *Preliminary Recommendations of Eligibility and Level of Effects*.

In a letter dated September 18, 2012, the State Historic Preservation Officer did not object to the finding that Site 33-3653 be treated as eligible for the purposes of this undertaking and that adverse effects to the site would be avoided by establishing an Environmentally Sensitive Area. In the letter, the State Historic Preservation Officer also concurred that the CBJ Dairy, Site 33-15752, had previously been determined ineligible for the National Register and that the determination remained unchanged and that Site 33-16865 is not eligible for the National Register. The State Historic

Preservation Officer concurred that Site 33-16598 does meet National Register criteria. The State Historic Preservation Officer did not concur that Sites 33-19862, 33-19863, 33-19864, and 33-19866 are not eligible for the National Register, based in part on comments received from the Tribes stating that: “they may contribute to an as yet to be defined historic district located within the cultural landscape identified by the Tribes.” The State Historic Preservation Officer requested that existing data and the information provided by the Tribes be analyzed to determine if a National Register eligible District may exist and if the four sites contribute to the District’s significance. The State Historic Preservation Officer suggested that these four sites be assumed eligible for the undertaking and to explore means for taking the effects of the undertaking into account.

On April 29, 2014 FHWA transmitted the proposed MOA to the SHPO. On July 2, 2014, the SHPO provided draft comments to FHWA on the proposed Discovery and Monitoring Plan. On July 9, 2014, the SHPO provided draft comments to FHWA on the proposed MOA. On July 9, 2014, a meeting was held between the staff of the SHPO, FHWA, Caltrans, RCTC, and the MCP project consultants to discuss the SHPO’s comments on the proposed MOA and Discovery and Monitoring Plan and how they should be addressed. After providing the revised MOA (including all supporting attachments) to the Native American Tribes for a 14-day review period, FHWA transmitted the revised MOA to SHPO on September 18, 2014. On October 30, 2014, the SHPO indicated they concurred with the revised MOA.

3.8.3.2 Temporary Impacts

Build Alternatives

Impacts to cultural resources would result from construction of the MCP Build Alternatives, not from operation of the facility itself. Impacts to cultural resources are considered permanent, not temporary, as discussed above.

No Build Alternatives

As discussed above, impacts to cultural resources are considered permanent, not temporary. Although the MCP project would not be built under the No Build Alternatives, impacts to cultural resources identified in the MCP project cultural resources studies (specifically Site 33-16598) could result from construction of the other improvements to the Ramona Expressway under Alternative 1B.

3.8.3.3 Environmentally Sensitive Areas

Environmentally Sensitive Areas are locations of identified resources within a project APE that are to be protected by avoidance or restrictions on construction activities. These sites are flagged off or fenced off and monitored during project construction.

Eligible Environmentally Sensitive Area Sites

Site 33-3653 (CA-RIV-3653)

Site 33-3653 has been designated an Environmentally Sensitive Area. It is assumed eligible for this undertaking and will be avoided by the project. Therefore, the Determination of Effect for Site 33-3653 is No Adverse Effect with Standard Conditions (Environmentally Sensitive Area).

3.8.3.4 Section 4(f)

The study area for National Register listed, eligible, and treated as eligible (for the purposes of this undertaking) historic sites was based on the APE as defined in the HPSR.

Site 33-16598 qualifies for protection under Section 4(f) because it has been determined to be eligible for the National Register. The MCP project will result in the use of a Section 4(f) property because Site 33-16598 extends partially into the MCP area of direct impacts. Refer to Appendix B, Final Section 4(f) Evaluation, for discussion of the project effects on this site under Section 4(f).

Sites 33-19862, 33-19863, 33-19864, and 33-19866 qualify for protection under Section 4(f) because they are being treated as eligible for the National Register (for the purposes of this undertaking) because of the cultural values ascribed to them by the Tribes. Refer to Appendix B, Final Section 4(f) Evaluation, for discussion of the project effects on these sites under Section 4(f).

The evaluation of the potential effects of the MCP Build Alternatives on those sites under Section 4(f) discussed in Appendix B was updated to reflect the MOA, the DMP, and the BTA, as applicable.

In early 2015, FHWA initiated consultation with SHPO under Section 4(f) regarding the historic properties evaluated in detail in the Final Section 4(f) Evaluation. In February 2015, SHPO indicated that the agency would review the Final Section 4(f) Evaluation during the 30-day public availability period for the Final EIS. SHPO's comments and/or concurrence with FHWA's determinations in the Final Section 4(f) Evaluation will be documented in FHWA's Record of Decision for the MCP project.

3.8.4 Memorandum of Agreement

A Memorandum of Agreement (MOA) was developed to provide treatment for adverse effects to Sites 33-16598, 33-19862, 33-19863, 33-19864, and 33-19866. The Native American Tribes that have been involved in consultation for the MCP project were invited to participate in the development of the MOA for the MCP project including a Discovery and Monitoring Plan (DMP) and a Burial Treatment Plan (BTP). A detailed discussion of the Native American consultation conducted for the MOA is provided in Chapter 9.0, Native American Consulting Parties, of the *Discovery and Monitoring Plan* provided as Attachment D of the MOA. The consultation process is briefly summarized below:

- On June 17, 2013, an informational meeting was held at the RCTC/Bechtel office in Riverside. The purpose of the meeting was to inform the Tribes of the current stage of the project, discuss the status of the MOA being prepared for the MCP project, and to request Tribal input regarding the mitigation measures being developed for the project.
- On June 20, 2013, the MCP project consultants gave a presentation regarding the MCP project to an inter-Tribal meeting held at the Morongo Community Center. Attending the meeting were representatives from the Morongo Band of Mission Indians, the Soboba Band of Lucieño Indians, the Agua Caliente Band of Cahuilla Indians, the San Manuel Band of Mission Indians, the Torres-Martinez Desert Cahuilla Indians, and the Twenty-Nine Palms Band of Mission Indians. A discussion regarding the MOA and Tribal participation was held after the presentation.
- On July 2, 2013, the MCP project consultants met with representatives from the Ramona Band of Cahuilla. The purpose of the meeting was to update the Ramona Band of Cahuilla regarding the status of project. The meeting was held at the Ramona Tribal Administration Office.
- On July 12, 2013, the MCP project consultants met with the Pechanga Band of Lucieño Indians resources team. This meeting was a follow up to an MCP Native American Informational Meeting that took place on June 17, 2013. On July 12, 2013, the Pechanga cultural resources team sent a letter to Caltrans and RCTC containing comments on the proposed MOA.
- Per the Morongo Band of Lucieño Indians' request at the June 20, 2013, inter-Tribal meeting, RCTC hosted a field visit on July 15, 2013, to view the four bedrock milling sites that will be impacted, as well as their context in the larger landscape surrounding the project APE. All of the consulting Tribes were invited:

- the Agua Caliente Band of Cahuilla Indians, the Cahuilla Band of Indians, the Gabrieleno/Tongva San Gabriel Band of Mission Indians, the Gabrielino Tongva Nation, the Morongo Band of Mission Indians, the Pechanga Band of Lucieño Indians, the Ramona Band of Cahuilla, the San Manuel Band of Mission Indians, and the Soboba Band of Lucieño Indians. Representatives from the Morongo Band of Mission Indians, the San Manuel Band of Mission Indians, and the Ramona Band of Cahuilla Indians attended the field visit, as did Caltrans, and the MCP project consultants.
- Consultation with all of the consulting Tribes continued throughout the development of the MOA and this DMP. This included an informational meeting at the RCTC/Bechtel office in Riverside on October 29, 2013, attended by representatives from the Agua Caliente Band of Cahuilla Indians, the Morongo Band of Mission Indians, the Pechanga Band of Lucieño Indians, the Ramona Band of Cahuilla Indians, the San Manuel Band of Mission Indians, the Soboba Band of Lucieño Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting (a facilitator hired to assist the MOA consultation process).
 - The MOA that included all of the attachments was distributed to the consulting Tribes for review and comment on November 8, 2013. Consultation meetings regarding the MOA were held at the RCTC/Bechtel office in Riverside on:
 - November 18, 2013, attended by the Pechanga Band of Lucieño Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting.
 - November 18, 2013, attended by the Morongo Band of Mission Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting.
 - November 19, 2013, attended by the Soboba Band of Lucieño Indians, the FHWA, the RCTC, Caltrans, Jacobs, the MCP project consultants, and Holon Consulting.
 - November 19, 2013, attended by the Ramona Band of Cahuilla Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting.
 - On November 21, 2013, a meeting was held at the Lake Perris State Recreation area. The meeting was attended by representatives of the Lake Perris State Recreation Area, the Morongo Band of Mission Indians, the Pechanga Band of Lucieño Indians, RCTC, and the MCP project consultants. The purpose of the meeting was to discuss archaeological resources in the Lake Perris vicinity that the Morongo Band of Mission Indians is concerned could be affected by either MCP or Lake Perris operations.

- Comments were received from the San Manuel Band of Mission Indians, the Morongo Band of Mission Indians, the Pechanga Band of Lucieño Indians, the Ramona Band of Cahuilla Indians, and the Soboba Band of Lucieño Indians on December 5, 11, 12, 17, and 17, 2013, respectively. The Agua Caliente Band of Cahuilla Indians responded by letter dated December 16, 2013, to state that they currently have no comments on the MOA; however, it will need to be presented to the Tribal Council for concurrence.

Additional consultation meetings with the San Manuel Band of Mission Indians, the Morongo Band of Mission Indians, the Pechanga Band of Lucieño Indians, the Ramona Band of Cahuilla Indians, and the Soboba Band of Lucieño Indians were held to discuss their comments as follows:

- A consultation teleconference was attended by the San Manuel Band of Mission Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting on December 6, 2013.
- A consultation meeting attended by the Pechanga Band of Lucieño Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting was held at Pechanga Cultural Resources Center on December 16, 2013.
- A consultation meeting attended by the Morongo Band of Mission Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting was held at the Morongo Tribal Administration office on December 16, 2013.
- A consultation meeting attended by the Soboba Band of Lucieño Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting was held at the Soboba Tribal Administration office on December 17, 2013.
- A consultation meeting attended by the Ramona Band of Cahuilla Indians, the FHWA, the RCTC, Caltrans, the MCP project consultants, and Holon Consulting was held at the Ramona Tribal office on December 17, 2013.
- A meeting between the Pechanga Band of Lucieño Indians and the MCP project consultants took place on January 3, 2014, at LSA's Riverside office. The purpose of the meeting was to discuss additional comments and concerns on this DMP and the Cultural Landscape Study.

The MOA was submitted to the consulting Tribes for a final 10-day review on April 4, 2014. Per a request from the Pechanga Band of Lucieño Indians to discuss several matters further, the FHWA spoke with Tribal representatives by phone on April 23

and 28, 2014. No additional consultation was requested by any of the consulting Tribes.

The executed “Memorandum of Agreement between the Federal Highway Administration and the California State Historic Preservation Officer Regarding the Mid County Parkway Project Riverside, California” that includes the DMP and the BTP is provided in Appendix U, Memorandum of Agreement, in this Final EIR/EIS. The MOA was executed by the Signatory Parties (FHWA and the California State Historic Preservation Officer) on October 30, 2014. In addition, the Invited Signatories (Caltrans and RCTC) signed the MOA on November 24, 2014 and December 3, 2014, respectively. Copies of the January 28, 2015, letters inviting the concurring parties to sign the MOA are included in Appendix U. The concurring Parties (Agua Caliente Band of Cahuilla Indians, Cahuilla Band of Indians, Gabrieleno/Tongva San Gabriel Band of Mission Indians, Gabrielino Tongva Nation, Morongo Band of Mission Indians, Pechanga Band of Luiseño Indians, Ramona Band of Cahuilla, San Manuel Band of Mission Indians, and Soboba Band of Luiseño Indians) were also invited to sign the MOA in January 2015, but had not signed the MOA as of the completion of the Final EIR/EIS.

The MOA stipulates the responsibilities of FHWA, the State Historic Preservation Officer, Caltrans (as assigned by FHWA), and the RCTC, on specific measures that will be taken to avoid, minimize, or mitigate the effects of the undertaking on historic properties. The measures provided below in Section 3.8.5, Avoidance, Minimization, and/or Mitigation Measures, reflect the measures in the MOA.

3.8.5 Avoidance, Minimization, and/or Mitigation Measures

As described in detail in Measures CUL-3 through CUL-5 below, If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find.

If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the County of Riverside (County) Coroner contacted. Pursuant to PRC Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) who will then notify the Most Likely Descendant (MLD). At this time, the person who discovered the remains will contact the District Environmental Branch

Chief or the District Native American Coordinator so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.

The Recirculated Draft EIR/Supplemental Draft EIS included the following measures to avoid, minimize, and/or mitigate adverse effects of the MCP Build Alternatives on cultural resources:

- CUL-1 (Discovery of Cultural Material)
- CUL-2 (Discovery of Human Remains)
- CUL-3 (Environmentally Sensitive Areas)
- CUL-4 (Archaeological Monitor)
- CUL-5 (Cultural Resources Monitoring Agreement)

Since the circulation of the Recirculated Draft EIR/Supplemental Draft EIS, the MOA described earlier in Section 3.8.4 and included in Appendix U in this Final EIR/EIS was executed by FHWA and the State Historic Preservation Officer. As a result, the stipulations in that MOA have superseded and replaced original Measures CUL-1 through CUL-5. Those stipulations are provided below as Measures CUL-1 through CUL-7.

CUL-1 **Cultural Landscape Study.** As stipulated in Section IV.A in the MOA, the RCTC, in consultation with FHWA, Caltrans, SHPO, and the Consulting Tribes shall prepare a Cultural Landscape Study of western Riverside County focused on the region surrounding the MCP Project APE. An annotated outline of the required study is provided as Attachment C in the MOA and specifies that the study will provide a synthesis of the prehistory and ethnography of western Riverside County, with a focus on the portions of the Perris and San Jacinto Valleys that surround the MCP Project APE, and develop an improved prehistoric/historic context for the vicinity. The annotated outline specifies that the Consulting Tribes will be invited to participate in the development of the required study. The Consulting Tribes' participation and consultation during the development of the Landscape Study will be guided by the provisions in Attachment C. A draft Cultural Landscape Study will be submitted to the Consulting Tribes for a thirty (30)-day

review and comment period. The FHWA shall consider all comments from the Consulting Tribes within thirty (30) calendar days of receipt to conduct consultation on any issues stemming from the comments and before its final approval of the Cultural Landscape Study. The RCTC will submit the Draft Cultural Landscape Study and any comments from the Consulting Tribes to the Signatories to this MOA for a forty-five (45)-day review and comment period. Copies of all comments received will be provided to the FHWA. The Cultural Landscape Study will be completed prior to the start of any construction activities east of Redlands Avenue, including activities that would directly affect Sites 33-16598, 33-19862, 33-19863, 33-19864, and 33-19866.

CUL-2 **Bedrock Milling Surface Residue Analysis.** As stipulated in Section IV.B in the MOA, prior to construction activities at Sites 33-19862, 33-19863, 33-19864, and 33-19866, the RCTC will conduct residue analysis from each bedrock milling surface within the four (4) sites. The results will be reported in the Final Monitoring Report and incorporated into the Cultural Landscape Study as appropriate.

CUL-3 **Implementation of the Archaeological Discovery and Monitoring Plan.** As stipulated in Section V.A in the MOA, the RCTC, in consultation with FHWA, Caltrans, SHPO, and the Consulting Tribes, has prepared a Discovery and Monitoring Plan (DMP) (Attachment D in the MOA). The DMP establishes procedures for archaeological resource monitoring/observation, and procedures for temporarily halting or redirecting work to permit identification, sampling, and evaluation of archaeological resources. The DMP also describes the Protocols to be followed for the Environmentally Sensitive Areas (ESAs) established for the MCP Project. The ESAs have been established to prevent inadvertent adverse effects to historic properties and cultural resources during project construction.

CUL-4

Implementation of the Archaeological Discovery and

Monitoring Plan. As stipulated in Section V.C in the MOA, the RCTC, as the MCP Project Applicant, will pay for at least one (1) archaeological monitor and at least one (1) Native American monitor to be present during construction activities at each construction locale situated in native soils as determined by RCTC's Resident Engineer for construction and the project archaeologist. Each monitoring team, composed of an archaeological and a Native American monitor, will work with one piece of heavy machinery and its operator at all times when native soil is being moved, including brush removal. Should there be more than one piece of heavy machinery at a construction locale that is working in native soils, additional monitors will be added. Native soils include all areas that have not been previously developed. These areas will be determined by the project archaeologist. Monitoring will continue until excavation has ceased or bedrock is reached. The RCTC will determine the Tribe responsible for monitoring various construction locales, and this may involve rotational monitoring among Consulting Tribes. Where a Tribe is not designated as the Native American Monitor in a specific location, the Tribe's monitors are welcome to monitor that location on an unpaid basis. The RCTC will ensure that a periodic archaeological report containing the period monitoring logs is completed by the project archaeologist and submitted to all Consulting Tribes as will be described in the Draft Monitoring Agreement. The report will thoroughly detail all associated activities, discoveries, and updates within the period. The report will be sent via mail and/or email. Provisions for tribal and archaeological monitoring are included in the DMP (Attachment D in the MOA).

Prior to construction, a Draft Monitoring Agreement will be prepared as a subsequent document to this MOA. The Draft Monitoring Agreement will provide the details regarding how the monitoring will proceed. Aspects of the Native American monitoring program will be listed and described. These will include, but are not limited to, the following: a) which Tribes

will be participating in the monitoring; b) the locations within the APE where the monitoring will occur; and c) further details concerning the rotation of Native American monitors as discussed above. Consulting Tribes that choose to participate in the monitoring will have the opportunity to provide input on the Draft Monitoring Agreement before it becomes finalized by the Transportation Agencies.

A Native American monitor cannot be substituted for an archaeological monitor; however, this does not preclude a Native American monitor from serving as an archaeological monitor if they meet the professional qualification standards under the PA.

CUL-5 **The Discovery of Human Remains.** As stipulated in Section V.D in the MOA, the FHWA shall implement the plan of action entitled “Mid County Parkway Burial Treatment Agreement” appended to the DMP as Appendix D in the MOA, regarding the management and disposition of Native American burials, human remains, cremations, and associated grave goods. RCTC, as the MCP Project Applicant, shall ensure that this measure is implemented during project construction.

CUL-6 **Curation of Archaeological Collections.** As stipulated in Section V.E in the MOA, per the current Caltrans standards and protocols concerning the disposition of artifacts, all recovered materials resulting from construction monitoring, prior archaeological excavations, and surveys as provided for in this MOA will be curated by an institution that meets the standards set forth in 36 CFR Part 79, as well as the State of California “Guidelines for the Curation of Archaeological Collections.” The FHWA understands that there is ongoing discussion between the Transportation Agencies and consulting Tribes regarding the possibility of reburying artifacts instead of curating them. Therefore, should the protocol for curation change, a future agreement regarding the reburial of artifacts, developed in consultation with the SHPO, may be executed by the FHWA, with the Tribes who are consulting parties to the

MOA, and reburial of the recovered material may occur. Curation and/or reburial agreements will be executed prior to construction of the MCP Project, and the consulting Tribes will have the opportunity to provide input. RCTC, as the MCP Project Applicant, shall ensure that this measure is implemented during project construction.

CUL-7

Native American Consultation. As stipulated in Section VI in the MOA, the involved Tribes shall be consulted throughout construction monitoring in regards to any known cultural resources, historic properties, or the discovery of any unanticipated Native American archaeological resources affected by the Undertaking. Consultation with the consulting Tribes will continue pursuant to the confidential Protocols developed by each Tribe and will continue until the Undertaking has been completed and all stipulations of the MOA are fulfilled. RCTC, as the MCP Project Applicant, shall ensure that this measure is implemented during project construction.